

UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF CALIFORNIA

In re

MARK I. LEVY,

No. 05-12127

Debtor(s).

JEFFRY G. LOCKE, Trustee,

Plaintiff(s),

v.

A.P. No. 06-1166

LEVY & ROSENBERG, et al.,

Defendant(s).

Memorandum After Trial

Defendant Levy & Rosenberg is a medical corporation owned 51% by Chapter 7 debtor Mark Levy and 49% by defendant Saul Rosenberg. The complaint in this matter, brought by Chapter 7 trustee Jeffry Locke, has two claims: for involuntary dissolution of the corporation, and for turnover by the corporation of Levy's share of all assets. There is no opposition to dissolution. Locke argues, very confusingly, that he is entitled to some sort of money judgment against Levy, although complaint seeks no such recovery.

In his proposed findings and conclusions, Locke asks the court to find that the corporation paid Levy


1 about \$395,000.00 after the filing which was property of the bankruptcy estate. The evidence did not clearly  
2 establish that the corporation paid anything to Levy postpetition, let alone payments which belonged to the  
3 bankruptcy estate.

4 After the court had heard all evidence, Locke sought (sort of) to amend his complaint to seek  
5 recovery from Levy of about \$239,000.00 paid by the corporation postpetition to the corporate pension plan.  
6 There was no comprehensible evidence of any such payment. Even if there were such a payment, Locke did  
7 not establish why Levy, as opposed to the pension plan, would be liable. Locke also did not establish that the  
8 payment, if made, was wrongful or was property of the bankruptcy estate.

9 For the foregoing reasons, Locke shall have no relief beyond dissolution of the corporation. Each  
10 party shall bear its own costs.

11 This memorandum constitutes the court's findings and conclusions pursuant to FRCP 52(a) and  
12 FRBP 7052. Counsel for Locke shall submit an appropriate form of judgment which counsel for Levy and  
13 for Rosenberg have approved as conforming to this memorandum.

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15 Dated: December 6, 2007

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19 Alan Jaroslovsky  
20 U.S. Bankruptcy Judge  
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